

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION**

IN RE: ANGELA DENISE WHITE

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CHAPTER 13
CASE NO. 11-60956

Debtors

ANGELA DENISE WHITE,

Movant

v.

FIA CARD SERVICES, N.A.
and
CR EVERGREEN II, LLC

Respondents / Creditors

and

REBECCA B. CONNELLY,

Chapter 13 Trustee.

AMENDED MOTION TO AVOID LIEN

1. Debtor, ANGELA DENISE WHITE, commenced this case on April 11, 2011, by filing the above-numbered voluntary petition for relief under Chapter 13 of title 11, United States Code.
2. FIA CARD SERVICES, N.A., filed unsecured Proof of Claim #10 on 05/16/2011. On 8/31/11, FIA CARD SERVICES, N.A., as transferor, filed a notice of Transfer Of Claim Other Than For Security indicating CR EVERGREEN II, LLC, as the transferee. Collectively, FIA CARD SERVICES, N.A., and CR EVERGREEN II, LLC, are referred to as the "RESPONDENTS" herein.
3. This motion is filed pursuant to 11 U.S.C. § 506(d) to avoid and cancel a judicial lien held by the RESPONDENTS on real property used as the Debtor's residence.

4. The RESPONDENTS have a claim against the Debtor in the amount of \$9,512.09.
5. The RESPONDENT'S claim is secured by a judicial lien in and on the real property used as Debtor's residence at 440 Bradley Road, Danville VA because FIA CARD SERVICES, N.A. recorded judgment entered against the Debtor on June 22, 2010 in the amount of \$10,812.09, plus costs and attorney's fees, in the land records of the City of Danville Circuit Court's Clerk's Office as Case Number 100003204.
6. Notwithstanding the foregoing, the RESPONDENTS do not have an allowed secured claim because the RESPONDENTS filed their claim as an unsecured claim.
7. Pursuant to 11 USC 506(d), "To the extent that a lien secures a claim against the debtor that is not an allowed secured claim, such lien is void, unless- (1) such claim was disallowed only under section 502(b)(5) or 502 (e) of this title; or (2) such claim is not an allowed secured claim due only to the failure of an entity to file a proof of such claim under section 501 of this title."
8. The exceptions to the lien avoidance requirements of 11 USC 506(d) do not apply in this case because (a) the RESPONDENT'S claim was not disallowed under section 502(b)(5) or 502(e); and (b) the fact that the RESPONDENTS do not have an allowed secured claim does not result from the failure of the RESPONDENTS to file a claim under 11 USC 501.
9. The RESPONDENTS lien is void under 11 USC 506(d).

WHEREFORE, Debtor prays for an Order against the RESPONDENTS for the cancellation and avoidance of the judicial liens on their residential real estate, and for such additional or alternative relief as may be just and proper.

Respectfully submitted,

COX LAW GROUP, PLLC

Date: 10/26/11

By: /s/ David Cox
Counsel for Debtor

David Cox
COX LAW GROUP, PLLC
900 Lakeside Drive
Lynchburg, VA 24501
434/845-2600
434/845-0727 fax

Certificate of Service

I hereby certify that the Motion to Void Lien and Notice of Hearing was mailed by US Mail, postage pre-paid, first class to:

FIA CARD SERVICES, N.A
A/K/A BANK OF AMERICA
P.O. BOX 15102
WILMINGTON DE 19886-5102

FIA CARD SERVICES, N.A
A/K/A BANK OF AMERICA
ATTN: BANKRUPTCY NC4-105-03-14
P.O. BOX 26012
GREENSBORO, NC27410

FIA CARD SERVICES, N.A
P.O. BOX 15026
WILMINGTON DE 19850-5028

FIA CARD SERVICES, N.A
A/K/A BANK OF AMERICA
GLASSER AND GLASSER, P.L.C
P.O. BOX 3400
NORFOLK VA 23514

CR EVERGREEN II, LLC
MS 550
P.O. BOX 91121
SEATTLE WA 98111

CR EVERGREEN II, LLC
C/O THE CORPORATION TRUST COMPANY, REGISTERED AGENT
CORPORATION TRUST COMPANY
1209 ORANGE STREET
WILMINGTON DE 19801

Date: 10/26/11

/s/ David Cox
Counsel for Debtor

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NOTICE OF HEARING ON DEBTOR'S MOTION TO AVOID LIEN

Please take notice that the attached *MOTION TO AVOID LIEN* filed by the Counsel for the Debtor(s) will be heard on ***December 7, 2011***, at **10:00 a.m.** in the **US Courthouse, 700 Main Street, Danville VA 24541**. Should you object or otherwise wish to be heard, please be present and prepared to protect your interests.

Date: 10/26/11

Respectfully submitted,

COX LAW GROUP, PLLC

By: /s/ David Cox

David Cox
David Wright
Janice Hansen
Heidi Shafer
COX LAW GROUP, PLLC
Counsel for Debtor
900 Lakeside Drive
Lynchburg, VA 24501